IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE SRI DEVINDER GUPTA, CHIEF JUSTICE**

**and**
**THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY**

**WRIT APPEAL NO : 166 of 2005**

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 02/12/2004 in WP NO : 19548 OF 2004 on the file of the High Court.)

Between:

Smt.Savitri Devi Goel, w/o Sri Rajender Kumar Goel,
r/o Plot No.45, Bapu Bagh Colony, P.G.Road, Secunderabad-500 003.

**..... APPELLANT**

AND

1 M/s.The Agrasen Co.operative Urban Bank Ltd., 15-2-391/392/1,

Siddiamber Bazar, Hyderabad rep., by its Asst.Branch Manager, Sri

Anand Agarwal, s/o Sri Lakshminarayan ji
2 Deputy Registrar of Cooperative Societies/ Divisional Cooperative

Officer, Golconda Division, Hyderabad.
3 A.P.Co.operative Tribunal rep., by its Chairman, Chandra Vihar

Buildings, Hyderabad.
4 M/s.Balaji Steel Syndicate represented by its Proprietor Sri

Ramchander Goel, died per L.Rs.
5 Sri Rajendra Prasad Goel, s/o late Sri Ramchander Goel,
r/o Plot No.45, Bapu bagh Colony, P.G.Road, Secunderabad-500 003.
6 Sri Naval Kishore Goel, s/o late Sri Ramchander Goel,
r/o Flat No.106, Uma Towers, Sindhi Colony, P.G.Road,

Secunderabad-500 003.

7 Smt.Nirmala Bai, w/o Sri Naval Kishore Goel,
r/o Flat No.106, Uma Towers, Sindhi Colony, P.G.Road,

Secunderabad.

(respondents No.2 to 7 are not necessary parties to the appeal)

**.....RESPONDENTS**

**Counsel for the Appellant:MR.SHYAM S.AGRAWAL**
**Counsel for the Respondent No.1: MR.RUPENDRA MAHENDERA**

**The Court at the admission stage made the following :**

ORAL ORDER: (per the Hon'ble the Chief Justice)

During the pendency of an appeal under Section 76 of the A.P. Cooperative Societies Act before the A.P. cooperative Tribunal at Hyderabad, an application was moved by the appellants therein to stay all further proceedings pursuant to the certificate dated 9-7-2004 in Case No.22/03/CUB-GD. The Cooperative Tribunal on 14-10-2004 passed an order staying the execution of the award against sureties and their properties for reasons recorded in the said order. The execution proceedings in the award were also stayed against respondents 2 to 5 personally or against their properties but the respondent bank was reserved liberty to proceed against the properties of the proprietary concern of Ramachander Goel and if any other property left by the deceased-Ramachander Goel. Feeling aggrieved, the Bank preferred W.P.No.19548 of 2004 questioning the said order. Learned single Judge, by the order impugned, allowed the writ petition and modified the order passed in I.A.No.1250 of 2004, by which blanket stay has been granted in favour of respondents 2 to 5 in the Writ Petition, and the stay was made subject to the condition of depositing of Rs.10,00,000/- within four weeks, which order is now under challenge by one of the affected parties.

We have heard the counsel for the parties.

The Cooperative Tribunal had passed a reasoned order assigning numerous reasons for grant of stay. With such discretionary orders passed, there was hardly any scope for interference in exercise of writ jurisdiction. May be that learned single Judge felt that another appropriate order could have been passed by the Tribunal. But that alone would not confer any jurisdiction on a writ court to interfere with

discretionary orders passed by the Tribunal unless it is shown that the order is perverse, arbitrary and mala fide. Learned single Judge was persuaded to pass an order that the appeal before the tribunal has to be treated an appeal against money decree, in which, invariably there should be stay on deposit of 50% of the amount of the decree. Without adverting to the reasons assigned by the Tribunal that whether or not the same were sufficient to pass blanket order of stay, the learned Judge proceeded to impose conditions for stay. This order cannot be sustained. Accordingly, we will allow the appeal and set aside the order passed by the learned single Judge. We will however dispose of the writ petition filed by the Bank with direction to the Cooperative Tribunal to hear and decide the appeal pending before it viz., CTA No.282 of 2004 as expeditiously as possible and in any case within a period of two months from the date of receipt of the writ order.

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DEVINDER GUPTA, CJ

9-2-2005

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B.SESHASAYANA REDDY, J

Tvr

**Note**:

Registry to ensure that copy of the

writ order is dispatched to the

Cooperative Tribunal, Hyderabad.

To

1 The Assistant Branch Manager, The Agrasen Co.operative Urban Bank Ltd., 15-2-391/392/1, Siddiamber Bazar, Hyderabad

2 The Chairman, A.P.Cooperative Tribunal, Chandra Vihar Buildings, Hyderabad.

3 2 CD copies.